

REMARKS

Claims 1-15 and 17 are pending and under consideration.

Favorable reconsideration of this application, in light of the following discussion t, is respectfully requested.

This response is believed to place the application in condition for allowance, and entry therefore is respectfully requested. In the alternative, entry of this response is requested as placing the application in better condition for appeal by, at least, reducing the number of issues outstanding.

Entry of Amendment under 37 C.F.R. § 1.116

The Applicant requests entry of this Rule 116 Response because the response does not alter the scope of the claims and places the application at least into a better form for purposes of appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures (M.P.E.P.) sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The M.P.E.P. further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

I. Rejection under 35 U.S.C. § 103

In the Office Action, 1-8 and 10-14 were rejected under 35 USC § 103(a) as being unpatentable over Trompower et al. ("Trompower", U.S. Patent No. 6,088,591) in view of Fischel et al. ("Fischel", U.S. Patent App. Pub. No. 2002/0009134).

This rejection is respectfully traversed.

Claim 1, for example, recites:

at predefined maximum time intervals, the base stations in the respective radio cells simultaneously transmit test signals during test cycles, wherein, during each test cycle, each respective base station transmits a number of test signals at least equal to a number of unique communication channels being used by the respective base station and each base station having a radio cell that overlaps the radio cell of the respective base station.

In other words, during each test cycle, each base station transmits a number of test signals at least equal to a number of unique communication channels being used by the

respective base station plus each base station having a radio cell that overlaps the radio cell of the respective base station. The Examiner takes the position that Trompower discloses the recited feature of "during each test cycle, each respective base station transmits a number of test signals at least equal to a number of unique communication channels being used by the respective base station and each base station having a radio cell that overlaps the radio cell of the respective base station" because it is obvious that the number of communication channels used for testing would at least provide a number of test signals that are equal to them. This is submitted to be incorrect.

The Examiner makes reference to a number of communication channels used for testing. However, the number of communication channels used for testing is irrelevant to the claimed feature, which requires each base station to transmit a number of test signals at least equal to a number of unique communication channels being used by the respective base station and each base station having a radio cell that overlaps the radio cell of the respective base station. Thus, a first base station overlapping with one other radio cell would transmit at least two test signals during each test cycle, while the second base station in the other radio cell would also transmit at least two test signals during the same test cycle. This feature is not disclosed in Trompower, as indicated by the Examiner. Fischel also fails to make up for the deficiencies in Trompower.

For at least the reasons discussed above, all of the features of claim 1 are not taught by either Trompower or Fischel, so that claim 1 patentably distinguishes over the combination of Trompower and Fischel. Accordingly, withdrawal of the § 103(a) rejection is respectfully requested.

Similar features to those described above with respect to claim 1 are also recited in claims 7-8 and 10, so that so claims 7-8 and 10 patentably distinguish over the combination of Trompower and Fischel. Accordingly, withdrawal of these § 103(a) rejections is respectfully requested.

Claims 2-6 and 15 depend either directly or indirectly from claim 1, and include all the features of claim 1, plus additional features that are not discussed or suggested by the references relied upon. Therefore, claims 2-6 and 15 patentably distinguish over the references relied upon for at least the reasons noted above. Accordingly, withdrawal of these § 103(a) rejections is respectfully requested.

Claims 11-14 depend either directly or indirectly from claim 10, and include all the features of claim 10, plus additional features that are not discussed or suggested by the references relied upon. Therefore, claims 11-14 patentably distinguish over the references

relied upon for at least the reasons noted above. Accordingly, withdrawal of these § 103(a) rejections is respectfully requested.

In the Office Action, claims 9 and 17 were rejected under 35 USC § 103(a) as being unpatentable over Trompower and Fischel in view of Brueckner et al. ("Brueckner", U.S. Patent App. Pub. No. 2002/0024929).

As discussed above, the combination of Trompower and Fischel does not discuss or suggest all of the features of claims 1 and 8, so that claims 1 and 8 each patentably distinguish over the combination of Trompower and Fischel. Brueckner fails to make up for the deficiency in the combination of Trompower and Fischel with respect to claims 1 and 8, so that claims 1 and 8 each patentably distinguish over the combination of Trompower and Fischel and Brueckner.

Claim 9 depends from claim 8 and claim 17 depends from claim 1, so that claims 9 and 17 each patentably distinguish over the combination of Trompower and Fischel and Brueckner. Accordingly, withdrawal of these § 103(a) rejections is respectfully requested.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

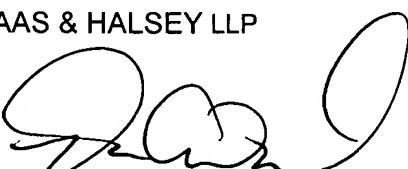
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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